

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3
4 Jaime R. Sanchez,

5 Plaintiff

6 v.

7 Las Vegas Metropolitan Police Department,
 et al.,

8 Defendants
9

Case No. 2:19-cv-000389-JAD-BNW

**Order Adopting Report and
Recommendation and Dismissing Case**

[ECF No. 13]

10 Plaintiff Jaime R. Sanchez's failure to file an amended complaint by the deadline set by
11 the court¹ prompted Magistrate Judge Brenda Weksler to recommend that I dismiss this action
12 without prejudice for failure to follow a court order.² The deadline for objections to that
13 recommendation was June 11, 2019, and no party has filed an objection to it or moved to extend
14 the deadline to do so. "[N]o review is required of a magistrate judge's report and
15 recommendation unless objections are filed."³

16 District courts have the inherent power to control their dockets and "[i]n the exercise of
17 that power, they may impose sanctions including, where appropriate . . . dismissal" of a case.⁴ A
18 court may dismiss an action with prejudice based on a party's failure to prosecute an action,
19
20

21 ¹ ECF No. 11.

22 ² ECF No. 13. The copy of the report and recommendation mailed to Sanchez was returned to
sender with no new address. ECF No. 14.

23 ³ *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *see also Thomas v. Arn*, 474
U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

⁴ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

1 failure to obey a court order, or failure to comply with local rules.⁵ In determining whether to
2 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with
3 local rules, the court must consider several factors: (1) the public's interest in expeditious
4 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
5 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
6 availability of less drastic alternatives.⁶

7 I find that the first two factors—the public's interest in expeditiously resolving the
8 litigation and the court's interest in managing the docket—weigh in favor of dismissing this case.
9 The risk-of-prejudice factor also weighs in favor of dismissal because a presumption of injury
10 arises from the occurrence of unreasonable delay in taking an action ordered by the court.⁷ The
11 fourth factor is greatly outweighed by the factors in favor of dismissal, and a court's warning to a
12 party that his failure to obey the court's order will result in dismissal satisfies the consideration-
13 of-alternatives requirement.⁸ Sanchez was warned by two orders that his case would be
14 dismissed without prejudice if he failed to timely file an amended complaint,⁹ so he had adequate

17 ⁵ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
18 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to
19 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–
20 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to
keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
21 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

21 ⁶ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
22 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

22 ⁷ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

23 ⁸ *Ferdik*, 963 F.2d at 1262; *Henderson*, 779 F.2d at 1424; *Malone*, 833 F.2d at 132–33.

⁹ ECF Nos. 11, 13.

1 warning of this consequence. The factors thus weigh heavily in favor of dismissing this case
2 without prejudice for failure to timely amend.

3 Accordingly, IT IS HEREBY ORDERED that the magistrate judge's report and
4 recommendation [ECF No. 11] is **ADOPTED** in full, and **this action is DISMISSED** without
5 prejudice based on Sanchez's failure to file an amended complaint as ordered by the court;

6 IT IS FURTHER ORDERED that the Clerk of Court is directed to ENTER JUDGMENT
7 accordingly and CLOSE THIS CASE.

8 Dated: June 16, 2019

9
10 
11 _____
12 U.S. District Judge Jennifer A. Dorsey
13
14
15
16
17
18
19
20
21
22
23